

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WILLIAM JAMES COKE SR.,

Plaintiff,

-against-

CHIEF MEDICAL OFFICER AND DEPUTY  
COMMISSIONER CARL J. KOENIGSMAN;  
MEDICAL DIRECTOR ROBERT  
BENTIVEGNA; MEDICAL DIRECTOR  
FREDRICK BERNSTEIN; PRIMARY CARE  
PROVIDER YELENA KORBKOVA; MEDICAL  
DIRECTOR DEBRA GEER; SHELLY  
MALLOZZI, GRIEVANCE PROGRAM AND  
DIRECTOR; NURSE CHRISTINE RAFFAELE,  
COUNSEL'S OFFICE (RETIRED),

Defendants.

19-CV-10038 (PMH)

ORDER

PHILIP M. HALPERN, United States District Judge:

On May 15, 2020, Defendants filed a motion to dismiss Plaintiff's Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). (Doc. 36). On June 16, 2020, Plaintiff filed a "Notice of Motion" in which Plaintiff included new factual allegations against certain Defendants but did not expressly seek permission to further amend his complaint. (Doc. 39). By Order dated June 24, 2020, the Court ordered two Defendants named in Plaintiff's Amended Complaint to be served and instructed Plaintiff to notify the Court within 30 days if he wished to file a second amended complaint. (Doc. 43).

By letter dated July 8, 2020, and filed via ECF on July 14, 2020, Plaintiff indicated that he wanted to further amend his Amended Complaint. (Doc. 53). Plaintiff also requested, however, that "because Plaintiff faces a hardship with getting access to the law library" in lieu of Plaintiff filing a second amended complaint, the Court order the U.S. Marshals to effect service of

Plaintiff's Amended Complaint on certain individuals mentioned in the Amended Complaint but not named as Defendants in the Amended Complaint. (*Id.*).

Plaintiff's request that the Marshall's effect service on un-named parties is denied. Plaintiff's request that he be permitted to file a second amended complaint is granted. Plaintiff shall file a second amended complaint by August 17, 2020. If Plaintiff fails to file a second amended complaint, the Court will consider Plaintiff's Amended Complaint to be the operative complaint and will deny any future requests for Plaintiff to further amend his Amended Complaint.

If Plaintiff does file a second amended complaint by August 17, 2020, Defendants that have already moved to dismiss shall timely notify the Court whether they intend to rely on their already-filed motion (Doc. 36) or whether they intend to file a new motion to dismiss. If Plaintiff does not file a second amended complaint by August 17, 2020, Defendants shall file their reply brief by August 24, 2020.

Plaintiff is reminded that in his statement of claim, Plaintiff must provide a short and plain statement of the relevant facts supporting each claim against each defendant named in the amended complaint. Plaintiff is also directed to provide the addresses for any named defendants. To the greatest extent possible, Plaintiff's amended complaint must:

- a) give the names and titles of all relevant persons;
- b) describe all relevant events, stating the facts that support Plaintiff's case including what each defendant did or failed to do;
- c) give the dates and times of each relevant event or, if not known, the approximate date and time of each relevant event;
- d) give the location where each relevant event occurred;
- e) describe how each defendant's acts or omissions violated Plaintiff's rights and describe the injuries Plaintiff suffered; and
- f) state what relief Plaintiff seeks from the Court, such as money damages, injunctive relief, or declaratory relief.

Essentially, the body of Plaintiff's amended complaint must tell the Court: who violated his federally protected rights; what facts show that his federally protected rights were violated; when such violation occurred; where such violation occurred; and why Plaintiff is entitled to relief. **Because Plaintiff's amended complaint will completely replace, not supplement, the original complaint, any facts or claims that Plaintiff wishes to maintain must be included in the amended complaint.**

Defendants are directed to mail a copy of this Order to Plaintiff and provide proof of service on the docket by July 20, 2020.

SO ORDERED.

Dated: July 16, 2020  
New York, New York

A handwritten signature in black ink, appearing to read 'Philip M. Halpern', written over a horizontal line.

PHILIP M. HALPERN  
United States District Judge